

Freedom of Information (Fees and Chances) Regulations (Amendment) 1991 No. 320

EXPLANATORY STATEMENT

Statutory Rules 1991 No. 320

Freedom of Information Act 1982

Freedom of Information (Fees and Chances) Regulations (Amendment)

Section 94 of the Freedom of Information Act 1982 (the FOI Act) empowers the Governor-General to make Regulations prescribing all matters that are necessary or convenient to be prescribed for giving effect to the Act and in particular making provision for charges for access to documents.

The amending Regulations amend the Freedom of Information (Fees and Charges) Regulations (the Principal Regulations) to implement recommendations by the Senate Standing Committee on Legal and Constitutional Affairs for maximum limits on charges payable by Australian citizens requesting access under the FOI Act to documents containing personal information about those applicants. The amending Regulations also update a reference in the Principal Regulations to the Social Security Act and change references consequential upon the Freedom of Information Amendment Act 1991.

Details of the amending Regulations are at Attachment A.

ATTACHMENT

Details of amendments to the Freedom of Information (Fees and Charges) Regulations (the amending regulations)

Regulation 1 amends the Freedom of Information (Fees and Charges) Regulations as set out in the proposed Regulations.

Regulation 2 inserts a new sub-regulation 3(3) in the Principal Regulations to provide that the new maximum limits, imposed by Regulation 6 on charges for access to personal information, do not apply to requests by persons who are non-Australian citizens or who are temporary residents in Australia.

Regulation 3 amends regulation 6 of the Principal Regulations to update a reference to the Social Security Act. Regulation 6 of the Principal Regulations at present provides that FOI Charges are not payable in respect of a request for access to documents relating to the applicant's claim for a benefit under the Social Security Act 1947. Amending regulation 3 provides an update by referring to the Social Security Act 1991.

Regulation 4 amends regulation 11 of the Principal Regulations by omitting a redundant reference to section 30 of the Freedom of Information Act. Section 30 was repealed by the Freedom of Information Amendment Act 1991.

Regulation 5 amends regulation 14 of the Principal Regulations by omitting a redundant reference to section 30 of the Freedom of Information Act. Section 30 was repealed by the Freedom of Information Amendment Act 1991.

Regulation 6 amends the Schedule to the Principal Regulations. Item 2 of Part 1 in the Schedule at present provides that a charge of \$15 per hour is payable by an applicant for time spent by an agency in searching for or retrieving a document. Amending Regulation 6 inserts a new Item 2A in Part 1 of the Schedule to impose a maximum limit of \$30 on charges for search and retrieval where the request is for access to documents containing personal information about the applicant.

Item 5 of Part 1 in the Schedule to the Principal Regulations at present provides that a charge of \$20 per hour is payable by an applicant for time spent by an agency in making decisions on access to documents. Amending Regulation 6 inserts a new Item 6 in Part 1 of the Schedule to impose a maximum limit of \$40 on charges for decision making time where the request is for access to documents containing personal information about the applicant.

Amending Regulation 6 inserts a new item 4A in Part II of the Schedule to the Principal Regulations to provide that a charge is payable for access by way of a copy of a computer tape or disk based on the actual costs incurred by the agency in producing the copy. This amendment is consequential upon the insertion by the Freedom of Information Amendment Act 1991 of a new definition of 'document' in section 4 of the Freedom of Information Act which ensures that applicants can request a copy of a computer disk or tape.

(Authorised by the Attorney-General).